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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/534,092	03/23/2000	Waleed H. Hassanein	2601.1001-009	9125

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EXAMINER

SAUCIER, SANDRA E

ART UNIT PAPER NUMBER

1651

DATE MAILED: 12/03/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/534,092

Applicant(s)

Hassanein

Examiner

Sandra Saucier

Art Unit

1651



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Sep 23, 2002
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above, claim(s) 1-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 17-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirements.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

Art Unit: 1651

#### DETAILED ACTION

Claims 1-33 are pending. Claims 17-33 are considered on the merits. Claims 1-16 are withdrawn from consideration as being drawn to a non-elected invention.

#### *Election/Restriction*

Claims 1-16 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b) as being drawn to a non-elected invention. Election was made without traverse in Paper No. 6.

#### *Claim Rejections - 35 USC § 112*

##### INDEFINITE

Claims 17-33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 17 and 23 recite the inclusion of potassium, calcium and magnesium in the solution. Potassium, calcium and magnesium are metals. It is unlikely that a lump of magnesium is added to the solution. Rather, it is more likely that potassium, calcium and magnesium IONS are intended.

Claims 18 and 25, line 4, and claim 25 line 4 "agent" is misspelled.

Claim 21 recites "selected from the group consisting of dextrose, glucose and mixtures thereof."

Glucose and dextrose are synonyms, that is, they are the same compound, see Merck Index 4353 [U]. Thus, the claim is incorrect and confusing.

#### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action: A person shall be entitled to a patent unless (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent, (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States before the invention thereof by the applicant for patent.

Art Unit: 1651

Claims 17, 18, 21 and 22 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Turpin *et al.* [V] in view of Dobrian *et al.* [W] or Birkett *et al.* [X] or Watanabe *et al.* [Z]. *signature*

The claims are directed to a composition comprising:

- (1) a metabolizable carbohydrate (glucose),
  - (2) sodium chloride,
  - (3) potassium (ion),
  - (4) calcium (ion),
  - (5) magnesium (ion),
  - (6) bicarbonate ion,
  - (7) epinephrin(e)
  - (8) adenosine
- free of non-metabolizable impermeants  
pH about 7.4-8.5

The references are relied upon as explained below.

Turpin *et al.* discloses a composition comprising Krebs-Ringer bicarbonate buffer with 1.5% albumin at pH 7.4 (page 443, methods) to which has been added 0.3 $\mu$ M epinephrine plus adenosine 0.1 $\mu$ M (legend Fig. 4). Albumin is a cytoprotective agent as demonstrated by its antioxidative properties (Dobrian *et al.*) and is well know to have fatty acids and steroids associated with it (Birkett *et al.* and Watanabe *et al.*).

Thus, the composition of Turpin *et al.* which comprises albumin would also contain antioxidant, steroid and fatty acid by virtue of the fact that albumin preparations contain steroid and fatty acid and exhibit antioxidative properties.

Claims 19, 20, 23-33 appear to be free of the art.

To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Group Art Unit 1651. The supervisor for 1651 is M. Wityshyn, (703) 308-4743. The normal work schedule for Examiner Saucier is 8:30AM to 5:00PM Monday, Tuesday and 8:30 to noon on Wednesday.

Art Unit: 1651

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sandra Saucier whose telephone number is (703) 308-1084. Status inquiries must be directed to the Customer Service Desk at (703) 308-0197 or (703)-308-0198. The number of the Fax Center for the faxing of official papers is (703) 872-9306 or for after finals (703) 872-9307.

A handwritten signature in black ink, appearing to read 'Sandra Saucier', with a long horizontal flourish extending to the right.

Sandra Saucier  
Primary Examiner  
Art Unit 1651  
November 29, 2002